



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
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PEP/NRM

Via FAX and ELECTRONIC MAIL MEMO

August 18, 2006

To: Assistant Secretary, Indian Affairs*

From: Team Leader, Natural Resources Management
Office of Environmental Policy and Compliance {Lead}

Subject: Review of **Hearing Requests** for the **Post Falls Hydroelectric Project**, FERC No. 12606-000; Kootenai and Benewah Counties, Idaho, and Steven and Lincoln Counties, Washington

(**ER 06/817**)(Agency due date: **October 2, 2006**)

The Department has received a **Hearing Request** from the Avista Corporation (Avista) pertaining to preliminary Section 4(e) conditions filed by the Bureau of Indian Affairs (BIA) for the subject project. The Avista's request for hearing was received on August 17, 2006. The request for hearings should be available on the FERC website at: <http://www.ferc.gov> using the **e-Library** link. It is also available on the Department of the Interior Intranet at: <http://www.myinterior.doi.net/oepc/index.html> (Click on Hearing Requests).

Please review the hearing request that pertains to your Bureau's preliminary conditions and prescriptions and consult with the appropriate Regional Solicitor's Office as soon as possible. The Department's previous reviews are under ERs 05/695, 06/60, and 06/494.

By **August 28, 2006** (within 10 days of August 17, 2006), your Bureau must coordinate with other Bureaus and Departments to determine whether they received any hearing requests in this proceeding [43 C.F.R. 45.23(a)].

By **September 11, 2006** (within 25 days of August 17, 2006), your Bureau must consult with other Bureaus or Departments that received a hearing request, and decide jointly: (1) whether to consolidate the cases for hearing; and (2) if so, which Department will conduct the hearing[s] [43 C.F.R. 45.23(b)].

By **October 2, 2006** (within 45 days of August 17, 2006), any Bureau with challenged preliminary conditions or prescriptions should file an answer with this Office [43 C.F.R. 45.24(a)]. Each answer, or any other response to a request for hearing, must be prepared in consultation with the appropriate Solicitor's Office. If no answer to the request for hearing that pertains to its preliminary conditions and prescriptions are submitted by the due date (and the hearing request has not been rejected by the Department), the issues will be deemed material, factual, and in dispute [43 C.F.R. 45.24(e)].

Please contact the appropriate Solicitor's Office (**DIA: Chris Watson**, Telephone 202-208-4335; Fax 202-219-0559; and/or **Kim Owens**, Telephone 202-208-6240; Fax 202-219-0559) to assist with Departmental coordination, decisions on consolidation, and determining your Bureau's answer or other response, which is due to this office by **October 2, 2006**.

This Office will prepare the Department's referral notice(s) in consultation with the Solicitor's Office in Washington, D.C., and refer each case to the appropriate hearings division within 5 days of receiving answers to each hearing request (to be sent no later than **October 6, 2006**). [43 C.F.R. 45.25(a)]

Please note the Department has also received proposed alternative conditions from Avista Corporation relating to the BIA's section 4(e) conditions. When analyzing alternatives and deciding whether to modify preliminary conditions, BIA must consider any findings of fact issued by an ALJ under 43 C.F.R. 45.60 that relate to this rehearing request [43 C.F.R. 45.73(a)(3)].

/s/ 8/18/06
Vijai N. Rai

cc: Assistant Secretaries
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